MAIL STOP AF
Docket No. 8014-1037-1
PATENT

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of:

Toshiyuki MIYADERA — Conf. 8254

Application No. 10/799,606 — Group 2818

Filed March 15, 2004 — Examiner David Vu

PRODUCTION PROCESS OF LIGHT EMITTING DEVICE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

December 4, 2006

Sir:

Applicant requests a pre-appeal brief review of the final rejection in the above-identified application.

No amendments are being filed with this request.

A Notice of Appeal is filed herewith. The review is requested for the reasons advanced on the attached sheets.

Respectfully submitted,

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REASONS IN SUPPORT OF REQUEST FOR REVIEW

A pre-appeal brief review is respectfully requested because the rejections of claims 3, 4, 7, 8, 11, 12, and 15-24 include at least a clear factual error, or in the alternative, a clear legal error, as explained below.

Applicant requests review of the final rejection of claims 3, 4, 7, 8, 11, 12, and 15-24 under 35 U. S. C. 102(b) as being anticipated by ITOH 5,347,344.

The Examiner offered Figures 5-6 as anticipating independent claims 3 and 17. Claim 3 is reproduced and annotated to reflect how the Examiner reads the claim onto ITOH:

> A production process of light emitting device equipped with a substrate **2**, light emitting layers **3/3a** formed on the substrate, and an insulator layer **3c** mutually partitioning the light emitting layers **3/3a**;
>
> wherein the production process includes a process of forming the insulator layer by a thermal transfer method to produce the light emitting device equipped with the substrate, the light emitting layers formed on the substrate, and the formed insulator layer mutually partitioning the light emitting layers.

In method claim 17, the Examiner reads the claim as follows "using a thermal transfer method to form an insulator layer **3c** mutually partitioning light emitting layers **3/3a** of a light emitting device, wherein, the light emitting device is produced with a substrate **2**, the light emitting layers formed on

the substrate **2**, and the formed insulator layer mutually partitioning the light emitting layers."

Each of elements 3, 3a, and 3c are portions of an ink layer. Ink layers are not light emitting layers. The rejection is therefore based on clear factual error (the ink layers are not light emitting layers) and the rejection is based on clear legal error (all recited features not disclosed).

ITOH Figure 1 discloses a thermal transfer printer that recycles an endless ink sheet 4 comprised of a transparent polymer base film 2 and coated with an ink layer 3. The ink layer 3 is disclosed as including wax, resin mixed with pigments and dyes and the like (reflective, not light emitting materials).

Figure 2 illustrates a thermal head 5 heating the ink layer 3 and transferring ink layer portions 3b onto a printing medium 6 (exiting to the right in Figure 2), with an ink remaining portion 3c remaining on the base film 2. Where the portion 3b has been removed, ink transferred portion 3d is thus-formed (see Figure 5) between ink remaining portions 3c.

Figure 5 discloses that the ink conveying roller 12 applies ink powder 3a to the ink transferred portion 3d on the base film 2 to replenish the ink transferred portions 3d where the portion 3b has previously been removed.

Figure 6 shows that, during a fusing process, the ink powder 3a is heated and fused when the corresponding portion of the base film 2 passes on the heating roller 16. The fused ink

powder 3a and the ink remaining portion 3c are combined at the border therebetween so as to eliminate the border and thereby reproduce a uniform ink layer 3 on the base film 2. The ink sheet 4 thus renewed is then fed to the thermal head 5 again to use as recording material.

Thus, each of elements 3, 3a, and 3c are portions of the ink layer. Although the ink layers may reflect light, the ink layers do not emit light, and are not light emitting layers.

The rejection is based on further factual errors.

Although ITOH relates to thermal transfer, ITOH does not disclose forming an insulator layer to produce a light emitting device equipped with the substrate, the light emitting layers formed on the substrate, and the formed insulator layer mutually partitioning the light emitting layers. There is no light emitting device formed and no light emitting layers.

Claim 4 recites forming the insulator layer on a transfer member and then transferring the insulator layer to the substrate. The Examiner appears to read "transfer member" onto element 12. If so, ink powder 3a would be the insulator layer, which is transferred to base film 2 and fused (as shown in Figure 6). However, the Examiner relies on element 3a as a light emitting layer. As claim 4 recites the insulator layer being transferred, this claim is not anticipated.

Claims 7-8 recite wherein the light emitting layers contain a light emitting material emitting light by impressing

electric field. Layers 3, 3a, and 3c do not contain a light emitting later emitting light by impressing electric field.

The Official Action has offered ITOH column 5, lines 40-59, reproduced below:

> **9.**
>
> **As shown in FIG. 5, the ink conveying roller 12 applies ink powder 3*a* to the ink transferred portion 3*d* on the base film 2. At that time, an ink coating bias voltage is applied between the core material 9*a* of the photosensitive roller 9 and the ink conveying roller 12. Therefore, an electric field is produced through the insulating base film 2 between the photosensitive roller 9 and the ink conveying roller 12 in accordance with the charge pattern formed on the photosensitive roller 9. Since no charge exists at the ink transferred portion 3*d*, the charged ink powder 3*a* on the surface of the ink conveying roller 12 adheres to the ink transferred portion 3*d* according to the electrostatic force of the electric field. At the ink remaining portion 3*c*, electric charges in the photosensitive layer 9*b* prevents the ink powder charged with the same polarity from adhering to the surface of the ink sheet 4 by electrostatic force. Consequently, the ink powder 3*a* adheres only to the ink transferred portion 3*d* so as to replenish the partially removed ink layer 3. An amount of the ink powder 3*a*, or thickness of the ink layer 3, can be controlled by controlling the ink coating bias voltage. At the end of**

Although an electric field is involved in transferring the charged ink powder 3a onto ink transferred portion 3d, there is no disclosure of "a light emitting material emitting light by impressing electric field". Therefore these claims are not anticipated and the rejection is based on clear error as to the disclosure of ITOH.

Claims 11-12 and 15-16 recite wherein the substrate is composed of a resin. ITOH does not disclose the substrate being a resin. According to the Examiner, base film 2 is the substrate. ITOH discloses that the ink layer 3 may include resin, but does not disclose the base film 2 comprising resin.

The Examiner reads claim 18 onto Figures 4-5. Although roller 9 is shown as being charged, there is no disclosure of base film 2 (being offered as the recited substrate) comprising plural first and second electrodes. Therefore, claim 18 is not anticipated.

Claim 19 depends from claim 17 and thus the Official Action reads the recited substrate onto base film 2. But in making the claim 19 rejection, the Official Action now reads substrate onto printing medium 6. This claim is therefore not anticipated.

Claim 20 is not anticipated for the same reasons as to claims 17 and 18, and the rejection suffers from the same errors.

Conclusion

The Examiner has made clear factual as to the ITOH disclosure, e.g. characterizing ink layers as light emitting layers, and the rejections are based on clear legal error. In view of this, the anticipation rejection of record cannot be sustained and must be reversed; such is respectfully requested.